

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of
Illinois, for and on behalf of the People of the State
of Illinois,

Petitioner,

vs.

Burlington Northern & Santa Fe Railway Company,
Respondent,

T00-0027

Petition for approval of the taking or damaging of
certain properties in Morgan County, Illinois by
exercising the right of eminent domain.
PARCELS 6058109PE and 6058109TE.

ORDER

By the Commission:

On April 5, 2000, the Department of Transportation of the State of Illinois ("Petitioner") filed the above referenced Petition with the Illinois Commerce Commission ("Commission") naming as Respondent Burlington Northern & Santa Fe Railway Company ("BN") to approve the taking of certain property in Morgan County, Illinois, by exercising the power of eminent domain (Parcels 6058109PE and 6058109TE).

Pursuant to notice as required by law and by the rules and regulations of the Commission, this matter came on for hearing on June 13, 2000, before a duly authorized Hearing Examiner of the Commission at the Commission's offices in Springfield, Illinois. Appearances were entered on behalf of Petitioner, Respondent and by a staff member of the Railroad Section of the Transportation Division of the Commission ("Staff"). Evidence was taken and the case was marked "Heard and Taken."

David Kastendick, Land Acquisition Engineer for Petitioner, testified that Petitioner seeks a permanent easement and a temporary easement as to the property described in Appendix "A" and Appendix "B" attached hereto. The easements are needed for an improvement of Illinois Route 104, known as Morton Avenue, in Jacksonville, Morgan County, Illinois, which is under the control and jurisdiction of Petitioner. Two existing bridges will be removed and replaced by a single five lane bridge and an intersection will be realigned. The permanent easements are needed for the safety and convenience of the traveling public. The funds for the acquisition of the property for this project have been allocated and approved. No agreement has been reached by the parties as to compensation for the parcel, nor has the form of the

conveyance been agreed to, which necessitates that Petitioner be given approval by the Commission to exercise its power of eminent domain with regard to acquiring the easements in the parcel legally described in Appendix "A" and Appendix "B" attached hereto.

A proposed order was served on the parties. No Briefs on Exceptions were filed.

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks to acquire a permanent and temporary easement in Parcel 6058109PE and 6058109TE, legally described in Appendix "A" and Appendix "B" attached hereto presently owned by BN for an improvement of Illinois Route 104 in Jacksonville, Morgan County, Illinois, to better serve the traveling public and to enhance the public safety and convenience;
- (4) Petitioner presented evidence as to the ownership by BN of the property and concerning the efforts made to obtain the easement;
- (5) the evidence shows that construction can be carried out without any substantial interference with BN's conduct of its rail carrier operations;
- (6) the desired property interest is reasonably necessary for the proposed project;
- (7) the requested permanent and temporary easements should be granted.

IT IS THEREFORE ORDERED that the approval of the Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain with regard to acquiring a permanent and temporary easement as to Parcel No. 6058109PE and 6058109TE, legally described in Appendix "A" and Appendix "B" attached hereto.

IT IS FURTHER ORDERED that, subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 20th day of December, 2000.

*Richard L. Mathias*³

Chairman

EXAMINER	<i>[Signature]</i>
SECTION CHIEF	<i>[Signature]</i>
General Counsel of Orders	<i>[Signature]</i>

T00-0027
APPENDIX "A"

Parcel: 6058109-PE
Owner: Burlington Northern and
Santa Fe Railway Company
Job No.: R-96-005-98
Route: F.A. 753 (IL 104)
Sec.: A(RS-5), 37VBR-1
County: Morgan
Sta. 38+276.534 to Sta. 38+378.529

Purpose: construction and maintenance of highway bridge.

Part of the Southwest Quarter of the Southeast Quarter of Section 22, Township 15 North, Range 10 West of the Third Principal Meridian, Morgan County, Illinois, being more particularly described as follows:

Commencing at the southwest corner of the Southeast Quarter of said Section 22, thence South 89 degrees 40 minutes 02 seconds East along the south line of said Section 22, a distance of 78.003 meters [255.91 feet]; thence North 00 degrees 19 minutes 58 seconds East to the Burlington Northern and Santa Fe Railroad right of way, a distance of 38.248 meters [125.49 feet] to the point of beginning.

From said point of beginning; thence North 52 degrees 26 minutes 40 seconds West along said right of way, a distance of 9.793 meters [32.13 feet]; thence North 60 degrees 22 minutes 35 seconds West along said right of way, a distance of 24.833 meters [81.47 feet]; thence South 89 degrees 31 minutes 03 seconds East to a point on said right of way, a distance of 56.673 meters [185.93 feet]; thence South 42 degrees 51 minutes 57 seconds East along said right of way, a distance of 16.630 meters [54.56 feet]; thence South 54 degrees 19 minutes 51 seconds East along said right of way, a distance of 41.483 meters [136.10 feet]; thence North 89 degrees 31 minutes 03 seconds West to a point on said right of way, a distance of 48.666 meters [159.67 feet]; thence North 52 degrees 26 minutes 37 seconds West along said right of way, a distance of 29.858 meters [97.96 feet] to the point of beginning, containing 1,759 square meters [18,934 square feet], more or less.

T00-0027
APPENDIX "B"

Parcel: 6058109-TE
Owner: Burlington Northern and
Santa Fe Railway Company
Job No.: R-96-005-98
Route: F.A. 753 (IL 104)
Sec.: A(RS-5), 37VBR-1
County: Morgan

Sta. 38+329.862 to Sta. 38+425.410

Purpose: removal of highway bridge, grading and sloping.

Part of the Southwest Quarter of the Southeast Quarter of Section 22 and
Part of the Northwest Quarter of the Northeast Quarter of Section 27, all in
Township 15 North, Range 10 West of the Third Principal Meridian, Morgan
County, Illinois, being more particularly described as follows:

Commencing at the southwest corner of the Southeast Quarter of said Section
22, thence South 89 degrees 40 minutes 02 seconds East along the south line of
said Section 22, a distance of 101.704 meters [333.67 feet]; thence North 00
degrees 19 minutes 58 seconds East, a distance of 20.185 meters [66.22 feet] to
the point of beginning.

From said point of beginning; thence South 89 degrees 31 minutes 03 seconds
East, a distance of 48.666 meters [159.66 feet]; thence South 54 degrees 19
minutes 51 seconds East, a distance of 57.146 meters [187.49 feet]; thence
North 89 degrees 39 minutes 09 seconds West, a distance of 56.176 meters
[184.30 feet]; thence North 10 degrees 54 minutes 58 seconds West, a distance
of 4.152 meters [13.62 feet]; thence North 52 degrees 26 minutes 42 seconds
West, a distance of 48.095 meters [157.79 feet] to the point of beginning,
containing 1,666 square meters [17,933 square feet], more or less.